

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 5246

California State Republican Party and)

Douglas R. Boyd, Sr., as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that California State Republican Party and Douglas R. Boyd, Sr., as treasurer, (collectively referred to as Respondents), violated 2 U.S.C. § 441a(a)(2)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. California State Republican Party is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Douglas R. Boyd, Sr. is the treasurer of the California State Republican Party.

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3. The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that no multicandidate political committee shall make contributions to any candidate with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C.

§ 441a(a)(2)(A).

4. No candidate or political committee shall knowingly accept any contribution which exceeds the contribution limitations of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

5. The national committee of a political party and a state committee of a political party may make expenditures in connection with the general election campaign of a candidate for Federal office subject to the limitations at 2 U.S.C. § 441a(d)(3).

6. Expenditures made by any person in cooperation, consultation or concert, with, or at the request or suggestion of, a candidate his or her authorized political committees, or their agents shall be considered to be a contribution to such candidate. 2 U.S.C. § 441a(a)(7)(B)(i). The term "expenditure" includes any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(9)(A)(i).

7. The national committee of a political party may make expenditures authorized by 2 U.S.C. § 441a(d)(3) through a designated agent, including State and subordinate party committees. 11 C.F.R. § 110.7(a)(4). The Commission's Campaign Guide for Political Party Committees provides that when delegating 441a(d)(3) spending authority, the assigning committee must first authorize the spending in a written agreement that should specify the amount the designated agent may spend. *Campaign Guide for Political Party Committees (1996)* at 16.

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8. Respondents spent \$2,368,491 on the Matt Fong for U.S. Senate Committee. Respondents were limited to spending a total of \$1,522,937, including \$1,517,937 under 2 U.S.C. § 441a(d)(3) and \$5,000 under 2 U.S.C. § 441a(a). The Republican National Committee (RNC) was limited to spending \$1,517,937 under 2 U.S.C. § 441a(d)(3) on behalf of any candidate for U.S. Senate in California.

9. Respondents spent \$38,153 on Bordonaro for Congress. Respondents had \$35,490 available to spend on Bordonaro for Congress including \$30,490 under 2 U.S.C. § 441a(d)(3) and \$5,000 under 2 U.S.C. § 441a(a). The Committee exceeded its expenditure limit for Bordonaro for Congress by \$2,663.

10. An additional expenditure beyond the expenditure limit is considered an excessive contribution in violation of 2 U.S.C. § 441a(a)(2)(A).

V. Respondents admit they cannot locate prior written authorization from the RNC to spend any amount of the RNC's spending authority under 2 U.S.C. § 441a(d)(3) on behalf of the Matt Fong for U.S. Senate Committee, with respect to Committee's coordinated expenditure for the Matt Fong for U.S. Senate Committee of \$845,554. Absent such evidence, these expenditures are appropriately considered excessive contributions in violation of 2 U.S.C. § 441a(a)(2)(A).

VI. Respondents violated 2 U.S.C. § 441a(a)(2)(A) by making an excessive contribution to Bordonaro for Congress in the amount of \$2,663.

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of \$12,000 pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C.

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§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement among the parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by any party or by agents of any party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION

Lawrence H. Norton
General Counsel

BY: Gregory R. Baker
Gregory R. Baker
Acting Associate General Counsel

7/12/02
Date

FOR THE RESPONDENTS

BY: Charles L. Beelen

6/5/02
Date

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